



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*Copy*  
Applicant : Hayley Korn, et al.

Serial No. : 09/248,436

Filed : February 11, 1999

For : APPARATUS FOR DISABLING A TELEPHONE RINGER

Examiner : Jeffrey F. Harold

Group Art Unit : 2644

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Date of Deposit:	March 22, 2004
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.	
Name:	Stephen McConaughy
Signature:	

PETITION TO REVIVE ABANDONED APPLICATION

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Alexandria, VA 22313-1450

Commissioner for Patents:

By this petition applicants respectfully request revival of the above-referenced application which was held abandoned by Paper No. 11 dated January 22, 2004. The basis for abandonment as stated in the Notice of Abandonment was "The reply received on December 4, 2003, was timely however it was non-compliant, thus the amendment was not entered and [by] the time frame to reply on December 4, 2003."

Applicants respectfully submit that their response of December 4, 2003 was substantially and essentially compliant with Patent Office Rules and Regulations, as explained below.

### Relevant Facts

1. There was a final office action dated June 4, 2003, which held claims 31-53 and 56-59 allowable and rejected claims 6-30, 54 and 55.

2. Applicants filed a response dated December 4, 2003 which cancelled the rejected claims 1-30, 54 and 55 by two separate statements, once on page 2 of the response in Amendment to the Claims which recited "Applicants are canceling Claims 1-30, 54 and 55" and once on page 10 of the response in Remarks which recited "... Claims 1-30, 54 and 55 have been cancelled." In the Listing of Claims applicants recited "Claims 1-30 (Cancel)" but inadvertently did not recite "Claims 54, 55 (Cancel)."

3. The Notice of Abandonment states that the failure to recite "Claims 54 , 55 (cancel)" in the Listing of Claims, resulted in non-compliance and abandonment of this application.

### Discussion

Applicants respectfully submit that the omission of the recitation of "Claims 54 and 55 (cancel)" in the Listing of Claims was an inadvertent error in the nature of a typographic informality, but that applicants' intention was abundantly clear (a) from the Amendment to Claims statement "Applicants are canceling Claims 1-30, 54 and 15", and (b) from the conclusionary Remarks statement "Applicants are canceling Claims 1-30, 54 and 55 . . ."

In regard to applicants' intention to cancel claims 1-30 and Claim 54 and 55, it should be noted in the Listing of Claims that applicants did recite "Claims 1-30

(Cancel),” and it was obviously an inadvertent failure to include the recitation “Claims 54, 55 Cancel” on Page 6 of the Response, between the recitations of Claims 53 and 56.

Applicants’ Response of December 4, 2003 followed all the procedural requirements to attain full compliance with the office action and the Patent Office regulations, except for this inadvertent error which omitted four words; however, applicants’ intent was unambiguously stated at the beginning and at the end of the document.

In conclusion, it is submitted that applicants’ intention was completely clear, and that abandonment of the application is a severe consequence for the circumstances described above. Accordingly, reconsideration of this application and favorable action are respectfully requested. Applicants’ check for the petition fee is enclosed.

Notwithstanding applicants’ position set forth above, applicants now enclose a substitute Response to Final Office Action (without repeat payment of fees), this substitute document including in the Listing of Claims a specific recitation that Claims 54 and 55 are cancelled, to overcome the objection to the original Response filed December 4, 2003.

If an extension of time is required to enable this document to be timely filed and there is no separate Request for Extension of Time, this document is to be construed as also constituting a Request for Extension of Time Under 37 C.F.R. §1.136(a) for a period of time sufficient to enable this document to be timely filed. Any

fee required for such a Request for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§1.16 and 1.17 and not submitted herewith should be charged to the Deposit Account of the undersigned attorneys, Account No. 01-1785; any refund should be credited to the same account. One copy of this document is enclosed.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP  
Attorneys for Applicants  
90 Park Avenue  
New York, New York 10016  
(212) 336-8000

Dated: New York, New York  
March 22, 2004

By: 

J. David Dainow

Registration No. 22,959



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PTO/SB/64 (11-03)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

First named inventor: Hayley Korn, et al.

Application No.: 9/248,436

Art Unit: 2644

Filed: February 11, 1999

Examiner: Jeffrey F. Harold

Title: APPARATUS FOR DISABLING A TELEPHONE RINGER

AUG 02 2004

Attention: Office of Petitions

**Mail Stop Petition**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 872-9306

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Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☒ Small entity-fee \$ 665 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

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**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in

the form of Substitute Response to Final Office Action (identify type of reply):☒ has been filed previously on December 4, 2003.☒ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_.

☐ has been paid previously on \_\_\_\_\_.☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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### 3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

July 26, 2004

Date

Telephone

Number: 212-336-8000



Signature

J. David Dainow

Typed or printed name

Amster, Rothstein & Ebenstein LLP

Address

90 Park Ave., New York, NY 10016

Address

Enclosures: ☒ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: \_\_\_\_\_

### CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

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☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

July 26, 2004

Date



Signature

Stephen McConnaughey

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Type or printed name of person signing certificate